

IN THE UNITED STATES DISTRICT COURT
FOR THE DELAWARE DISTRICT

R.W., A Minor, individually, by and through
his parent and natural guardian SARAH WILLIAMS
and SARAH WILLIAMS, individually,
PLAINTIFFS,

V.

THE DELAWARE DEPARTMENT OF
EDUCATION; VALERIE WOODRUFF;
personally and in her official capacity as
the Secretary of Education for the State of
Delaware; THE STATE OF DELAWARE BOARD
OF EDUCATION; and JOSEPH PIKA, Ph.D.;
JEAN ALLEN; RICHARD M. FARMER, JR.;
MARY GRAHAM, ESQ.; BARBARA RUTT;
DENNIS SAVAGE; CLAIRBOARNE D.
SMITH; ANNE CASE; VALERIE WOODRUFF;
personally and in their official capacity as Members
of the State Board of Education; and
THE CHRISTINA SCHOOL DISTRICT; JOSEPH J.
WISE, personally and in his official capacity as the
Superintendent of the District; DAVID SUNSTROM,
personally and in his official capacity as the Assistant
Superintendent of the District; SANDRA COUNTLEY
personally and in her official capacity; SHARON
DENNY, personally and in her official capacity;
FREEMAN WILLIAMS, personally and in his official
capacity; THE CHRISTINA SCHOOL DISTRICT :
SCHOOL BOARD; BRENDA PHILLIPS;
JAMES DURR; GEORGE EVANS, ESQUIRE;
BEVERLY HOWELL; CONSTANCE MERLET
JOHN MACKENZIE, CECELIA SCHERER; and
JOSEPH WISE; all personally and in their official
capacity as Members of the CHRISTINA
SCHOOL DISTRICT.

DEFENDANTS.

C.A. NO. 05-CV-00662

**REDACTED
APPENDIX TO
ANSWERING BRIEF OF DEFENDANTS THE CHRISTINA SCHOOL
DISTRICT BOARD OF EDUCATION, JOSEPH J. WISE, DAVID SUNSTROM,
SANDRA COUNTLEY, SHARON DENNY, FREEMAN WILLIAMS, BRENDA
PHILLIPS, JAMES DURR, GEORGE EVANS, BEVERLY HOWELL,
CONSTANCE MERLET, JOHN MACKENZIE AND CECILIA SCHERER, IN
OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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Constance Merlet, John Mackenzie and Cecilia
Scherer*

Date: October 24, 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE DELAWARE DISTRICT

R.W., A Minor, individually, by and through :
his parent and natural guardian SARAH WILLIAMS :
and SARAH WILLIAMS, individually, :
PLAINTIFFS, :

V. :

THE DELAWARE DEPARTMENT OF :
EDUCATION; VALERIE WOODRUFF; :
personally and in her official capacity as :
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Delaware; THE STATE OF DELAWARE BOARD :
OF EDUCATION; and JOSEPH PIKA, Ph.D.; :
JEAN ALLEN; RICHARD M. FARMER, JR.; :
MARY GRAHAM, ESQ.; BARBARA RUTT; :
00662 :
DENNIS SAVAGE; CLAIRBOARNE D. :
SMITH; ANNE CASE; VALERIE WOODRUFF; :
personally and in their official capacity as Members :
of the State Board of Education; and :
THE CHRISTINA SCHOOL DISTRICT; JOSEPH J. :
WISE, personally and in his official capacity as the :
Superintendent of the District; DAVID SUNSTROM, :
personally and in his official capacity as the Assistant :
Superintendent of the District; SANDRA COUNTLEY :
personally and in her official capacity; SHARON :
DENNY, personally and in her official capacity; :
FREEMAN WILLIAMS, personally and in his official :
capacity; THE CHRISTINA SCHOOL DISTRICT :
SCHOOL BOARD; BRENDA PHILLIPS; :
JAMES DURR; GEORGE EVANS, ESQUIRE; :
BEVERLY HOWELL; CONSTANCE MERLET :
JOHN MACKENZIE, CECELIA SCHERER; and :
JOSEPH WISE; all personally and in their official :
capacity as Members of the CHRISTINA :
SCHOOL DISTRICT. :

DEFENDANTS. :

C.A. NO. 05-CV-

CERTIFICATE OF SERVICE

I, William L. Doerler, Esquire, do hereby certify that on this 24th day of October, 2005 one (1) copy of the foregoing **REDACTED APPENDIX TO ANSWERING BRIEF OF DEFENDANTS THE CHRISTINA SCHOOL DISTRICT BOARD OF EDUCATION, JOSEPH J. WISE, DAVID SUNSTROM, SANDRA COUNTLEY, SHARON DENNY, FREEMAN WILLIAMS, BRENDA PHILLIPS, JAMES**

DURR, GEORGE EVANS, BEVERLY HOWELL, CONSTANCE MERLET, JOHN MACKENZIE AND CECILIA SCHERER, IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION were delivered via E-File and Serve, upon:

Patricia McHale O'Neill
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114 West Front Street
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Dover, DE 19904

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Sunstrom, Sandra Countley, Sharon Denny,
Freeman Williams, Brenda Phillips, James
Durr, George Evans, Beverly Howell,
Constance Merlet, John Mackenzie and Cecilia
Scherer*

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P. 02

DAO 140 (Rev. 5/01) Summons in a Civil Action

UNITED STATES DISTRICT COURT

District of

Delaware

R.W. A minor, individually, by and through
his parent and natural guardian SAETH W
AND SARAH W. individually

SUMMONS IN A CIVIL CASE

DELAWARE Department of Education et al

JOSEPH PIKA, VALERIA WOODRUFF
JEAN ALLEN, RICHARD M FARMER JR
MARY BLAHAM ESQ, BARBARA RUTT
DENNIS SAVAUGH, CLAIR BELLENE D. SMITH
ANNE CASE, VALERIE WOODRUFF PERSONALLY
AND IN THEIR OFFICIAL CAPACITY

CASE NUMBER:

05-662

CHRISTINA SCHOOL DISTRICT AND CHRISTINA SCHOOL DISTRICT SCHOOL BOARD
JOSEPH WISE FREEMAN WILLIAMS BRENDA PHILLIPS, JAMES DUKER, CONSTANCE MERLET
DAVID SANDSTROM SHARON DEMAY GEORGE EVANS ESQ, BEVERLY HANELL, JOHN MACKENCIE
SANDRA COUNTLEY PERSONALLY AND IN THEIR OFFICIAL CAPACITY
TO: (Name and address of Defendant)

CHRISTINA SCHOOL DISTRICT
600 N Lombard Street
Wilmington DE 19801

SEP 13 2005

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (Name and address)

PATRICIA M'ONEILL ESQ.
22 WEST FRONT STREET
MEDIA PA 19063

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

PETER T. DALLEO

SEP 12 2005

CLERK

DATE

Evette Watson

(BY) DEPUTY CLERK

B1

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FAX NO.

P. 01

SAO 85 (Rev. 8/98) Notice, Consent, and Order of Reference -- Exercise of Jurisdiction by a United States Magistrate Judge

UNITED STATES DISTRICT COURT

District of _____

Plaintiff
v.

NOTICE, CONSENT, AND ORDER OF REFERENCE --
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Case Number: _____

Defendant

NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION

In accordance with the provisions of 28 U.S.C. §636(e), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(e) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented

Signatures

Date

ORDER OF REFERENCE

IT IS ORDERED that this case be referred to _____
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C.
§636(e) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED
ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

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FAX NO. 3024542005

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IN THE UNITED STATES DISTRICT COURT FOR THE DELAWARE
DISTRICT

R.W., a Minor, individually, by and through
his parent and natural guardian SARAH W. [REDACTED],
AND SARAH W. [REDACTED], individually,
PLAINTIFFS,

v.

THE DELAWARE DEPARTMENT OF
EDUCATION; VALERIE WOODRUFF;
personally and in her official capacity as
the Secretary of Education for the State of
Delaware; THE STATE OF DELAWARE BOARD
OF EDUCATION; and JOSEPH PIKA, Ph. D.;
JEAN ALLEN; RICHARD M. FARMER, JR.;
MARY GRAHAM, ESQ.; BARBARA RUTT;
DENNIS SAVAGE; CLAIRBOURNE D.
SMITH; ANNE CASE; VALERIE WOODRUFF;
personally and in their official capacity as Members
of the State Board of Education; and
THE CHRISTINA SCHOOL DISTRICT; JOSEPH J.
WISE, personally and in his official capacity as the
Superintendent of the District; DAVID SUNSTROM,
personally and in his official capacity as the Assistant
Superintendent of the District; SANDRA COUNTLEY,
personally and in her official capacity; SHARON
DENNY, personally and in her official capacity;
FREEMAN WILLIAMS; personally and in his official
capacity; THE CHRISTINA SCHOOL DISTRICT
SCHOOL BOARD; BRENDA PHILLIPS;
JAMES DURR; GEORGE EVANS, ESQUIRE;
BEVERLY HOWELL; CONSTANCE MERLET
JOHN MACKENZIE; CECILIA SCHERER; and
JOSEPH WISE; all personally and in their official
capacity as Members of the CHRISTINA
SCHOOL DISTRICT.

FILED
SEP 12 2005
U.S. DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

C. A. No. 05 - 662

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DEFENDANTS.

COMPLAINT

I. PRELIMINARY STATEMENT

1. This is a civil rights action brought on behalf of R.W., a minor, (R.W.) under the Civil Rights Act of 1871, 42 U.S.C. Section 1983; and Title VI of the Civil Rights Act of 1964; by and through his parent and natural guardian, SARAH W■■■■■■, (Parent) against the Delaware Department of Education, (DOE); its Secretary, (Secretary); its Board of Directors, (DOE Board); The Christina School District, (District); its Superintendent and Assistant Superintendent; its School Board Members, (School Board) and personnel related to the Alternative School Program, for compensatory and punitive damages for violations of the Equal Protection and Due Process Clauses of the Constitution of the United States, Federal and State Laws that protect R.W.'s right to an Education and right to be free from Discrimination based on race. Further, R.W. seeks a Declaration that the District's policy and procedures regarding Alternative Placement are unconstitutional for failure to provide Due Process; and Injunctive Relief to prohibit the District from further violating R.W.'s rights by forcing him to attend an Alternative Placement for one month prior to his returning to School on August 29, 2005, again in violation of his

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Due Process Rights; further to prohibit the District from Discriminating against minority children in its application of discipline.

II. JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. Sections 1983, 1985 and 1988. Jurisdiction is based on 28 U.S.C. Sections 1331 and 1334. Plaintiffs' cause of action arises under Title VI of the Civil Rights Act of 1964; The Civil Rights Act of 1871; 42 U.S.C. Sections 2000 (d) (1) and 2000 (d) (2); 5 U.S.C. Sections 701-706, and the Fifth and the Fourteenth of the Amendments to the United States Constitution. Plaintiffs are entitled to Emergency Preliminary and Injunctive relief pursuant to 28 U.S.C., F.R. Civ. P. 65 and under the Laws of the United States because there is no adequate remedy at law and Plaintiffs have suffered and will continue to suffer irreparable harm absent injunctive relief. Venue is properly in this Court in that all parties reside in this District and the matter at issue arose in this District.

III. PARTIES

3. The Plaintiffs are R.W., a thirteen -year old student of the Defendant District, and his parent and natural guardian, Sarah W. They reside at 322 East 10th Street, Wilmington, County of New Castle, DE 19801 and are citizens of the State of Delaware.

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4. The Delaware Department of Education is located at the Townsend Building, 401 Federal Street, Dover, DE 19901. It is the governmental agency responsible for administrating public school programs within the State of Delaware and is the entity which, pursuant to State law has the ultimate legal control of the educational process. The DOE has the ultimate authority and duty to cause the Defendant District to comply with the requirements of state and federal law. The DOE is a recipient of federal funds. As a result of the failure of the DOE to assure compliance with the laws, both state and federal, R.W. and his Parent have suffered harm and will continue to suffer harm by loss of education; loss of educational opportunities; serious injury to his ability to become a productive member of the community and the workforce, emotional harm and other irreparable harm in that R.W. has loss time for education which he can never get back.

5. Defendant Valerie Woodruff is the Secretary of Education for the State of Delaware. Under 14 Del. C. Section 101-10103, Secretary Woodruff is responsible for the overall administration of the DOE. At all times relevant herein, Secretary Woodruff was responsible for the supervision of agents, servants, and employees of the DOE and the Board. The Secretary is sued personally and in her official capacity as Secretary of Education for the State of Delaware. Her office is located in the Townsend Building, Federal Street, Dover, DE 19901.